

37 Am. Jur. 2d Fraud and Deceit § 159

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Fraud and Deceit

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IV. False Representations

G. Representations and Statements as to Particular Matters

2. Title, Location, Quantity, and Quality of Property

b. Location, Boundaries, or Identity

§ 159. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  27, 28

Forms

[Am. Jur. Pleading and Practice Forms, Fraud and Deceit §§ 161, 162](#) (Complaint, petition, or declaration—For damages—Misrepresentation as to acreage and boundaries of real property)

The general principle is well settled that false statements or misrepresentations as to the location, boundaries, or identity of real property that is the subject of a transaction constitute actionable fraud¹ and will sustain an action of deceit² or constitute ground for rescinding the contract.³

Representations made by one who claims personal knowledge and is seeking to deal commercially cannot be considered mere matters of opinion,⁴ nor can representations that are made positively, with the intent that they be relied upon.⁵ Whenever the owner of a property undertakes to point out to the prospective purchaser boundaries of the property the owner expects to sell, the misrepresentations are matters of fact, not opinion, and in indicating boundaries, the owner must do so accurately, and a failure to do so will amount to a false representation for which the owner will be liable even though the owner acted under an honest mistake and without an intent to deceive.⁶

Footnotes

- 1 [Canady v. Mann](#), 107 N.C. App. 252, 419 S.E.2d 597 (1992).
An owner of real property is under a duty to inform himself or herself of the true boundaries of land the owner seeks to sell, and an owner who breaches this duty and misrepresents the true boundaries in the sale of property commits constructive fraud. [Stone v. Farnell](#), 239 F.2d 750 (9th Cir. 1956).
- 2 [Andrus v. St. Louis Smelting & Refining Co.](#), 130 U.S. 643, 9 S. Ct. 645, 32 L. Ed. 1054 (1889) (wherein the rule is stated that false and fraudulent representations as to the location and condition of land may be ground for damages); [Warren v. Hugo Scherer Estate](#), 272 Mich. 254, 261 N.W. 319 (1935); [Camicia v. Iafollo](#), 89 W. Va. 422, 109 S.E. 335 (1921).
- 3 [Warren v. Hugo Scherer Estate](#), 272 Mich. 254, 261 N.W. 319 (1935).
- 4 [Warren v. Hugo Scherer Estate](#), 272 Mich. 254, 261 N.W. 319 (1935).
- 5 [Davis v. Lee](#), 52 Wash. 330, 100 P. 752 (1909).
- 6 [Murphree v. Rawlings](#), 3 Wash. App. 880, 479 P.2d 139 (Div. 2 1970).

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